REMARKS

By the present response, Applicant has canceled claims 17, 41 and 52 without disclaimer. Further, Applicant has amended claims 1, 18, 40, 44, 63 and 64 to further clarify the invention. Claims 1-16, 18-40, 42-51 and 53-65 remain pending in the present application.

In the Office Action, the Examiner has rejected claims 1-10, 12-18, 20-30, 32-35, 37, 38, 40, 41 and 43-63 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,143,153 (Black et al.). Claim 11 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20050027892 (McCabe et al.). Claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20040199815 (Dinker et al.). Claims 31 and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent No. 6,510,432 (Doyle). Claim 36 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent No. 6,438,539 (Korolev et al.). Claims 42 and 64 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20030217068 (Fruchtman et al.).

Claim renumbering

Applicant noted that there were two claims numbered 63 and has corrected the claim numbers affected.

35 U.S.C. §102 Rejections

Claims 1-10, 12-18, 20-30, 32-35, 37, 38, 40, 41 and 43-63 under 35 U.S.C. §102(e) as being anticipated by Black et al. Applicant respectfully traverses these rejections.

Black et al. discloses internal network device dynamic health monitoring. To increase network device availability, internal network device evaluations of resource attributes are conducted against threshold expressions and network managers are notified of any threshold events to allow them to address issues

before failures occur. Flexibility is added by allowing users to select between various predefined threshold expressions, and flexibility is further increased by allowing users to input new threshold expressions. The user provided threshold expressions are dynamically incorporated into the network device's threshold evaluations while the network device is running. Thus, network managers may change threshold expressions at any time in accordance with their needs. The types of threshold expressions that may be used are practically limitless and may include any operand and multiple variables, including the time of day. In addition, multiple threshold expressions may be cascaded together. Network managers may be notified of threshold events in multiple manners as well. Moreover, the types of resource attributes that may be evaluated is extended by assigning unique identifiers to network device resources and allowing threshold evaluations for any identifiable resource and associated attributes.

Regarding claims 1 and 44, Applicant submits that Black et al. does not disclose or suggest the limitations in the combination of each of these claims of, inter alia, one probe to collect data related to performance of an associated domain each at least one probe being embedded in the associated domain and including an associated control module containing user selectable parameters for controlling operation of each probe, or where each at least one probe may dynamically receive a new control module containing changes to the user selectable parameters and operate using the changes without effecting the operation of the associated domain. The Examiner asserts that Black et al. discloses one probe to collect data related to performance of an associated domain, at col. 167, lines 49-64. However, these portions merely disclose monitoring and evaluation of a particular network resource attributes based upon simple threshold values. This is not at least one probe to collect data related to performance of an associated domain each at least one probe being embedded in the associated domain and including an associated control module containing user selectable parameters for controlling operation of each probe, as recited in the claims of the present application. Black et al. merely discloses monitoring and evaluation of a particular network resource attributes based upon simple

threshold values and fixed expressions. Black et al. does not disclose or suggest a probe to collect data where the probe is embedded in an associated domain.

Moreover, Black et al. does not disclose or suggest each probe including an associated control module containing user selectable parameters for controlling operation of each probe, as recited in the claims of the present application. Black et al. rarely discloses sampling each resource attribute and comparing the attributes with a threshold level. The Examiner appears to assert that Black et al. discloses each probe comprising a control module including user selectable parameters for controlling operation of each probe, at column 168, lines 15-57. However, these portions merely disclose that the threshold dialogue box may include many different elements such as a resource element, an attribute element, a threshold rule element, a sampling frequency element, and an action element, and that the attribute element identifies the specific research attribute that is to be examined against the threshold rule, and that user profiles may be used to limit access to particular network device resources or limit which network device resource attributes a user may evaluate against thresholds. This is not an associated control module containing user selectable parameters for controlling operation of each probe, as recited in the claims of the present application. Black et al. does not disclose or suggest user selectable parameters for controlling a probe. Black merely relates to asserting threshold levels and comparing resource attributes against these thresholds.

Moreover, Black et al. does not disclose or suggest where each at least one probe may dynamically receive a new control module containing changes to the user selectable parameters and operate using the changes without effecting the operation of the associated domain. Black et al. does not disclose or suggest probes being embedded in a domain, or probes dynamically receiving a new control module with changes to user selectable parameters.

Regarding claims 2-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43, 44-51 and 53-63, applicant submits that these claims are dependent on one of independent claims 1 and 44 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that Black et al. does not disclose or suggest the limitations in the combination of each of claims 1-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43, 44-51 and 53-63 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

35 U.S.C. §103 Rejections

Claim 11 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Black et al. in view of McCabe et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that McCabe et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 11 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Dinker et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Dinker, et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 19 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claims 31 and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Doyle. Applicant respectfully traverses

these rejections and submits that these claims are dependent on independent claim 1 and, therefore, are patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Doyle does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 31 and 39 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claim 36 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Korolev et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Korolev et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 36 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claims 42 and 64 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Fruchtman et al. Applicant respectfully traverses these rejections and submits that these claims are dependent on one of independent claims 1 and 44 and, therefore, are patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Fruchtman et al. does not overcome the substantial defects noted previously regarding Black, et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 42 and 64 of the present

application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Conclusion

In view of the foregoing amendments and remarks, applicant submits that claims 1-16, 18-40, 42-51 and 53-65 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

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